

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

COLEY M. TYSON,

Plaintiff,

v.

CAFN: _____

NEW PRIME, INC., ACE
AMERICAN INSURANCE
COMPANY and JAMES HOLLAND,

Defendants.

DEFENDANTS' NOTICE OF REMOVAL

COME NOW, New Prime, Inc., ACE American Insurance Company and James Holland (hereinafter "Defendants"), named defendants in the above-styled action, and file this Notice of Removal, respectfully showing this Court the following facts:

1.

Plaintiff Coley Tyson (hereinafter "Plaintiff") filed suit against Defendants in the State Court of DeKalb County, State of Georgia. This suit is styled as above and numbered Civil Action File No. 20-A-79235 (*See generally* Plaintiff's Complaint).

2.

According to Plaintiff's Amended Responses to Defendants' First Request for Admission to Plaintiff, this matter involves an amount in controversy in excess of \$75,000.00. (Plaintiff's Amended Responses to Request for Admissions at P1).

3.

This Notice of Removal is filed within 30 days of Defendants' notice of this case being removable pursuant to the requirements of 28 U.S.C. § 1446(b)(3) and 28 U.S.C. § 1446(c)(3)(A).

4.

According to the Complaint, Plaintiff is domiciled in and a resident of the State of Georgia. (Plaintiff's Complaint at ¶ 1).

5.

Defendant James Holland is domiciled in and a resident of the State of Alabama.

6.

Defendant New Prime, Inc. is a foreign corporation with its principal place of business located in Missouri.

7.

Defendant ACE American Insurance Company is a foreign corporation with

its principal place of business located in Pennsylvania.

8.

Therefore, complete diversity exists between Plaintiff and Defendants. 28 U.S.C. § 1332(a)(1); *Triggs v. John Crump Toyota, Inc.*, 154 F.3d 1284, 1287 (11th Cir. 1998).

9.

All defendants consent to this removal.

10.

Thus, as shown above, the aforementioned civil action is a civil action of which this Court has original jurisdiction under the provisions of Title 28 of the United States Code § 1332 and, accordingly, is one which may be removed to this Court by Defendants pursuant to the provisions of Title 28 of the United States Code §1441, in that it is a civil action in which the matter in controversy exceeds the sum of \$75,000.00 and is between citizens of different states.

11.

Defendants have attached hereto a copy of the Case Initiation Form, Summons, Complaint, Affidavit of Service Upon James Holland, Answer of ACE American, Answer of New Prime, Inc., Answer of James Mitchell, Jury Demands for Defendants, Plaintiff's First Interrogatories and Requests for Production to

Defendants, Plaintiff's Motion to Amend Pleadings, Plaintiff's Motion to Amend Caption, and the parties' Rule 5.2 Certificates of Service, which are the only process, pleadings and/or orders in this case, such copy being marked Exhibit "A." A copy of the Plaintiff's Responses to Defendants' Interrogatories, Requests for Production, Requests for Admission, and Amended Responses to Defendants' Request for Admission, are attached hereto as Exhibit "B". A copy of the Notice of Filing Notice of Removal is attached hereto as Exhibit "C."

WHEREFORE, Defendants pray that the case be removed to the United States District Court for the Northern District of Georgia, Atlanta Division.

This 13th day of May, 2020.

Respectfully submitted,
SWIFT, CURRIE, McGHEE & HIERS, LLP

/s/ Elizabeth L. Bentley

By: _____

RICHARD C. FOSTER, ESQ.

State Bar No.: 271057

ELIZABETH L. BENTLEY, ESQ.

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Attorneys for Defendants

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the within and foregoing **Defendants' Notice of Removal** upon all parties to this matter by filing same with the Clerk of Court using the CM/ECF (Pacer) system which will automatically send an electronic copy of same to all parties and counsel of record as follows:

John Bey, Esq.
Joe Morris, Esq.
BEY & ASSOCIATES, LLC
191 Peachtree Street, Suite 3230
Atlanta, Georgia 30303

(Signature appears on following page)

This 13th day of May, 2020.

/s/ Elizabeth L. Bentley

By: _____
ELIZABETH L. BENTLEY, ESQ.

State Bar No.: 828730

SWIFT, CURRIE McGHEE & HIERS, LLP